

# Notice of Allowability

Application No.

10/790,532

Examiner

Daniel J. Mills

Applicant(s)

GASAWAY ET AL.

Art Unit

3679

DM

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment dated 8/23/2007.

2. ☒ The allowed claim(s) is/are 1-7, 10, 13-18 and 20-24.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some\* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of

Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 11/29/2005

4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.

7. ☐ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other \_\_\_\_\_.

## **DETAILED ACTION**

### ***Allowable Subject Matter***

Claims 1-7, 10, 13-18, 20, 21-24 are allowed.

The following is an examiner's statement of reasons for allowance: The claims are allowable because the prior art shows various fence assemblies, but fails to show a fence assembly having a member comprising a tab end having at least one tab and a recessed non-tab surface shaped such that its entire surface area fits flush against the internal surface diameter of the stabilizing surface when the tab is engaged via rotation of the member to engage the tab with the tab-slot via the notch.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

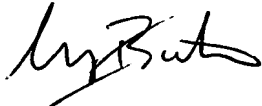
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Mills whose telephone number is 571-272-8115. The examiner can normally be reached on M-F 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3679

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DJM  
DJM  
10/28/2007

  
GREGORY J. BINDA  
PRIMARY EXAMINER

INTERVIEW SUMMARY

On April 34, 2007, a telephone Interview was held between Patent Examiners Daniel J. Mills and Daniel P. Stodola, and David L. Fox, attorney for applicants.

The pending rejections of the Office Action of January 25, 2007, were discussed, as well as possible amendments to the claims in order to overcome the rejections. More specifically, at the Interview the following issues were discussed: (1) Claim 13 was confirmed to be a product-by-process claim; (2) Claims 12 and 19, rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement, were indicated by applicants' attorney to be canceled without prejudice or acquiescence, but simply in the interest of advancing the application to allowance; (3) Claims 2-7, 10, 12, 13, 15, 16, 18 and 24 were discussed, as well as amendments to the claims in relation to the rejection of the claims under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; (4) Claims 21, 21, 23 and 24 were discussed, as well as amendments to the claims in relation to the rejection under 35 U.S.C. §102(b) as allegedly being anticipated by Sweeney (US Pat. No. 823,451), with applicant's attorney pointing out that Sweeney does not teach or disclose at least the claim limitation that the non-tab portion of the end of the member is shaped such that when the tab is engaged in the tab slot, the entire non-tab surface area of the member fits flush against the internal surface diameter of the stabilizing surface; (5) Claim 22 was discussed, as well as amendments to the claim in relation to the rejection under 35 U.S.C. §103(a) as allegedly being obvious over Sweeney in view of Shaw (US Pat. No. 6,406,003), with applicant's attorney pointing out that Sweeney, the primary reference does not teach or disclose at least the claim limitation that the non-tab portion of the end of the member is shaped such that when the tab is engaged in the tab slot, the entire non-tab surface area of the member fits flush against the internal surface diameter of the stabilizing surface, and Shaw fails to teach or suggest this limitation as well; (6) Claims 1, 2, 4-7, 10, 12-15 and 17-19 were discussed, as well as amendments to the claims in relation to the rejection under 35 U.S.C. §103(a) as allegedly being obvious over "applicants' admitted prior art" in view of Querengesser (US Pat. No. 3,021,116) and Sweeney, with